

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

IN THE MATTER OF:)	
CHRISTOPHER L. GAMBLE,)	Case No: B-1180131 C-13D
ERIKA N. GAMBLE,)	
)	
Debtor(s))	
_____)	

OBJECTION BY STANDING TRUSTEE TO CONFIRMATION OF PLAN

NOW COMES Richard M. Hutson, II, Standing Trustee ("Trustee") and respectfully objects to confirmation of the Debtors' plan pursuant to 11 U.S.C. §1325(b) and shows unto the Court the following:

1. The Debtors filed a petition under Title 11 of the United States Code, Chapter 13, on January 25, 2011, in the United States Bankruptcy Court for the Middle District of North Carolina.
2. On January 25, 2011, Richard M. Hutson, II, was appointed as Trustee.
3. This Court has proper and personal jurisdiction of the subject matter hereof and over the parties pursuant to 28 U.S.C. §§151, 157 and 1334, and the Standing Order entered by the United States District Court for the Middle District of North Carolina and this is a core proceeding within 28 U.S.C. §157(b).
4. The plan filed by the Debtors proposes a monthly payment of \$241.00 for a period of 60 months. There is no required return to general unsecured creditors. The Debtors have listed unsecured debt of \$47,737.69 in Schedule "F".
5. The Debtors have filed with the petition a Statement of Current Monthly Income and Calculation of Commitment Period and Disposable Income, known as Official Form B22C ("Form B22C"). The Debtors list current monthly income ("CMI") in Form B22C of approximately \$5,844.12.
6. Because the Debtors' CMI does exceed the median income figure for a family of the same size in North Carolina, the Debtors' reasonable and necessary expenses are calculated on Form B22C pursuant to 11 U.S.C. §1325(b)(3).
7. The Trustee objects to confirmation of the plan in that the Debtors are not devoting all available monthly disposable income to unsecured creditors pursuant to 11 U.S.C. §1325(b). In Form B22C, the Debtors list a deduction of \$600.00

per month for charitable contributions. The Debtors have provided the Trustee with evidence of charitable giving in the amount of \$2,055.00 for 2010, which would support an average monthly deduction of approximately \$171.25, not the listed deduction of \$600.00 per month in Form B22C. With charitable giving listed at \$171.25 per month, the Debtors would have approximately \$340.62 per month of disposable income in Form B22C that could be devoted to general unsecured creditors.

WHEREFORE, the Trustee prays the Court for an Order as follows:

1. That the Debtors' plan not be confirmed in that the plan does not comply with the provisions of the Bankruptcy Code, specifically 11 U.S.C. §1325(b), and the case be dismissed for cause pursuant to 11 U.S.C. §1307;
2. That, in the alternative, the Debtors' plan be modified to provide for \$20,437.00 to general unsecured creditors and the plan payments be increased to \$585.00 per month; or
3. For such other and further relief as the Court may deem just or proper.

This the 30th day of March, 2011.

s/Benjamin E. Lovell

Benjamin E. Lovell

Attorney for the Trustee

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CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing document upon John T. Orcutt, Esq., 6616-203 Six Forks Rd., Raleigh, NC 27615, Christopher & Erika Gamble, 5218-B10 Kerley Rd., Durham, NC 27705, and Michael D. West, Esq., U.S. Bankruptcy Administrator, PO Box 1828, Greensboro, NC 27402 by depositing a copy of same in the United States Mail, postage prepaid, and in the manner prescribed by Rule 5 of the Federal Rules of Civil Procedure.

This 30th day of March, 2011.

s/Benjamin E. Lovell
Benjamin E. Lovell, Esq.
Attorney for the Standing Trustee